IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Govt. Appeal No. 43 /2003

State of of Uttaranchal applicant

versus

Jagdamba Prasad Jugran
s/o Sri Gokul Deo
Forest Department Colony
5 Tilak Road Dehradun respondent.

Hon'ble B.C.Kandpal, J

Heard Learned AGA for the applicant , learned counsel for opposite party and perused the record on application under Section 5 of Limitation Act and perused the affidavit filed in support thereto.

Record shows that the judgment and order against which the appeal has been preferred is dated 29.3.2000 passed by Special Judicial Magistrate , CBI, Dehradun.

After the impugned judgment, the procedure started for filing appeal before the High Court and that procedure took place more than two and half years in the various departments of the government itself.

Supplementary affidavit which has been filed by one Rakesh Chandra posted as Assistant Superintendent in the office of Government Advocate , shows that all the relevant papers alongwith proposals of appeal were received by the office of he Government Advocate on 24.7.2003.

In paragraph 12 of the supplementary Affidavit it has been averred that thereafter narratives of all the eight appeals were

prepared and time was consumed in preparing the appeals finally with the help of the official staff.

The averments made in paragraph 12 of the affidavit itself does not appear to be satisfactory. Once the papers were received in the office of the Government Advocate on 24.7. 2003 then there was no justification for filing the appeal after a delay of more than two months and twenty days itself.

It is not made clear in the supplementary Affidavit as to what was the reason which took this much time in the office of the government Advocate for preparation of appeal and filing the same before the court.

The ground taken in the affidavit filed by the State for condonation of delay does not inspire confidence.

I do not find any force in the application under Section 5 of the limitation Act and the affidavit filed in support thereto by the State for condonation of delay.

The application under Section 5 of Limitation Act for condonation of delay is accordingly dismissed..

(B.C.Kandpal,J)

29.10.2005

nbj